

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

MASSACHUSETTS DEVELOPMENT)	
FINANCE AGENCY)	C.A. No.: CV 10203 PBS
Plaintiff)	
)	
v.)	
)	
ADP MARSHALL, INC., a FLUOR)	
DANIEL COMPANY, and FIREMAN'S)	
FUND INSURANCE COMPANY)	
<u>Defendants</u>)	
)	
ADP MARSHALL, INC.)	
Plaintiff in Counterclaim)	
)	
v.)	
)	
MASSACHUSETTS DEVELOPMENT)	
FINANCE AGENCY)	
<u>Defendant in Counterclaim</u>)	
)	
ADP Marshall, Inc.)	
Third Party Plaintiff)	
)	
v.)	
)	
ALLIED CONSULTING ENGINEERING)	
SERVICES, INC. ANDOVER CONTROLS)	
CORPORATION, R & R WINDOW)	
CONTRACTORS, INC., AND DELTA)	
KEYSPAN, INC. N/K/A DELTA)	
KEYSPAN, LLC, MADDISON)	
ASSOCIATES, INC., UNITED STATES)	
FIDELITY AND GUARANTY COMPANY)	
FIDELITY AND DEPOSIT COMPANY)	
OF MARYLAND, NATIONAL GRANGE)	
MUTUAL INSURANCE COMPANY,)	
TRAVELERS CASUALTY AND SURETY)	
COMPANY OF AMERICA, AMERICAN)	
HOME ASSURANCE COMPANY,)	
HARTFORD ROOFING COMPANY, INC.,)	
and SPAGNOLO/GISNESS &)	
ASSOCIATES, INC.)	
<u>Third Party Defendants.</u>)	

AFFIDAVIT OF EDWARD F. VENA, ESQ.

I, Edward F. Vena, hereby depose and state the following under oath:

1. I am a partner in the law firm of Vena, Riley, Deptula, LLP and counsel of record for the Plaintiff, Massachusetts Development Finance Agency (hereinafter "MDFA").
2. Attached to MDFA's Brief in Opposition to Defendants', ADP Marshall, Inc.'s and Fireman's Fund Insurance Company's (hereinafter collectively referred to as "ADP") Motion for Summary Judgment is a true and accurate copy of the following documents:

Exhibit A: Contract between ADP and MDFA.

Exhibit B: Certificate of Substantial Completion, AIA Document G704.

Exhibit C: January 8, 2002, correspondence from William M. Whelan to ADP entitled "Mechanical System Issues list".

Exhibit D: July 29, 2002, memorandum from Neal Hannon to Robert Greetham.

Exhibit E: September 6, 2002, memorandum from William M. Whelan to Robert Greetham.

Exhibit F: ADP's June 5, 2002, Petition to the Division of Administrative Law Appeals (hereinafter "DALA").

Exhibit G: MDFA's Answer to ADP's Petition.

Exhibit H: Administrative Law Judge Sarah Luick's Decision on the DALA hearings.

Exhibit I: ADP's Motion for Reconsideration/Clarification of the DALA Decision.

Exhibit J: MDFA's Opposition to ADP's Motion for Reconsideration/Clarification of the DALA Decision.

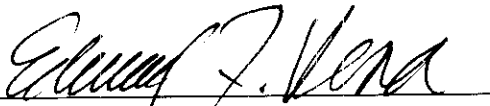
Exhibit K: Administrative Law Judge Sarah Luick's Decision on ADP's Motion for Reconsideration/Clarification.

Exhibit L: Transcript of DALA Proceedings between ADP and MDFA. (Pages 68-75 are excerpted and highlighted for this Court's convenience.)

Exhibit M: Cover Page, Table of Contents and §15-3[a][2] of James J. Myers, Massachusetts Construction Law, (2004).

Exhibit N: Affidavit of William M. Whelan. (original)

Signed under the pains and penalties of perjury this 14 day January 2005.


Edward F. Vena

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document
was served upon the attorney of record for each other
party by (hand) (mail) on _____

Jan. 14, 2005